



**MINUTES**  
**Committee on Ways and Means**  
**Wednesday, August 3, 2016 @ 8:15 a.m.**  
**10<sup>th</sup> Floor Conference Room, City Hall**

**CALL TO ORDER**

The meeting was called to order at 8:15 a.m.

**ROLL CALL**

Councilmember Judi Brown Clarke, Chair  
Councilmember Carol Wood, Vice Chair  
Councilmember Tina Houghton, Member

**OTHERS PRESENT**

Sherrie Boak, Council Staff  
Jim DeLine, Interim City Council Internal Auditor  
Jim Smiertka, City Attorney - arrived at 8:17 a.m.  
Angie Bennett, Finance Director  
Lori Welch, City of Lansing Operations & Maintenance  
Kathy Miles  
Tonia Olson, Granger  
Kevin McKinney, Granger  
Breina Push, Granger  
John Lancour, Friedland  
Victor Rose, City of Lansing Operations and Maintenance  
Lynne Meade, UAW IBT 243  
Phil Mikus, Granger

**MINUTES**

MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM JUNE 1, 2016 AS PRESENTED. MOTION CARRIED 3-0.

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MOTION BY COUNCIL MEMBER WOOD TO APPROVE THE MINUTES FROM JULY 20, 2016 AMENDED TO REFLECT THE COMMENT BY MR. SMIERTKA THAT HE WOULD MEET WITH MS. MEADE AND MS. ESTEE. MOTION CARRIED 3-0.

### **Public Comment on Agenda Items**

Was discussed during each agenda item.

### **Discussion/Action:**

#### **Authorization of Participation in the Capital Area Recycling Initiative**

Ms. Welch referenced the information she provided via email to the Committee based on the last meeting. This included the feasibility study that was requested in a power point presentation. They hope to continue to work together to accomplish their goals.

Council Member Brown Clarke asked who was represented during the discussions. Ms. Welch stated that the process of the report had one component reaching out to 5-6 of the private sectors. This part did not involve the steering committee.

Ms. Olson acknowledges they did participate in the discussions, but it only involved a consultant representing the principal. There was a dialogue and discussion, and Granger shared where they thought the study missed the mark, and they also inquired to participate. They would want to be in the mix, if this area recycling was chosen and the only choice. Ms. Olson lastly clarified that Granger does not believe the volume is sufficient enough for this proposal they Granger continues to be interested in working towards a collaborative outcome. Ms. Olson handed out a draft resolution recently used by Delta Township as an appropriate resolution.

Council Member Wood referenced the 2008 and 2015 studies, which showed a projection. She then asked Ms. Welch where the City sits now in 2016 in relationship to the projections. Ms. Welch answered they had not officially evaluated the data and released a statement. With single stream, which was the bigger one, in 2010 they went to single stream and increased recycling, and then later with the changes in carts that also increased. Council Member Wood again asked for the breakdown on the projection comparison, and also tonnage for 2009-2015. Ms. Welch agreed to provide that in a yearly breakdown, which is what they currently track.

Council Member Brown Clarke stated that it appeared they were looking at creating a regional facility but the City already has existing resources. Therefore what is showing them that the current resources cannot meet the needs, and in our current situation do we have the resources to meet. Ms. Welch acknowledges she did not have a simple answer, because currently every community is doing their own collecting, shipping, etc. They believe they can do better by pooling the resources. They believe it was proven by working with East Lansing. This proposal will be market driven. Ms. Welch added that they haven't found they don't have the local resources. Mr. Rose added to the discussion that currently the City uses a transfer and haul system, shipping to Ann Arbor. The City has a trucking issue they don't want and a facility on site they don't want. Regional collaboration is important to the City and they have begun to partner with a private entity to participate in a pilot program who will be tipping on floor. They hope if they see an increase in tonnage, they might convince Granger and Friedland that there could be a joint tipping floor.

Council Member Brown Clarke agreed with regional collaboration however, the resolution proposed is progressive to where the City currently is. Mr. Rose saw the value of the resolution, however with so many government agencies involved they need to start on the process.

Council Member Wood voiced a concern on the recent information of a pilot program with a private entity. Mr. Rose clarified that they are dumping the load, the City takes care of it and bills the private entity. This is nothing to do with staffing or equipment.

Council Member Wood referenced the “Options for Recycling” graph in the 2008 powerpoint, and asked for follow up information, and any projections on what was collected when it got to single stream. This research should also reflect revenue projections.

Council Member Brown Clarke asked Ms. Olson and Mr. Lancour, in comparing the two resolutions, what language is problematic in the original resolution if they are looking at collaboration, and private partnerships.

Mr. Lancour pointed out that the resolution has list of commodities, and that list is a big part of what Friedland already does, it also says they are working towards and ordinance to have haulers use the regional. His belief is that this will force people to go to the facility. The determination is flow control, and that is why their consultant tonnage count is off. Friedland is already providing the service to the community. Lastly he wanted it noted that in 2009 Friedland did bid on the transfer haul.

Ms. Olson acknowledge her support of the revised resolution she submitted today, and did recognize Ms. Welch for listening, however it still says that the concept is to work towards a facility. A facility infrastructure already exists, so this would be a replacement. It says “collaborating”, but that means “contracting”, which is a flag to the private sector. The revised resolution, was an initiative by Delta Township and revolves around activity to increase volumes so services already provided are uses. Right now the resolution does not tip to support the ventures.

Council Member Brown Clarke asked for an updated list of what municipalities had definitely confirmed to the Resolution. Ms. Welch admitted that the resolution can be customized for each community so not all have agreed to the original resolution. Delta Township has adopted the revised resolution that was handed out. It is possible that the revised resolution will get more collaboration, but both have mutual support of her resolution. The purpose of the resolution is to show everyone is working together.

Council Member Wood encouraged a resolution that has buy in from the private sector and public sector, then use that one resolution.

Ms. Olson pointed out that other communities have opted to not use the original resolution, those being Clinton County and Delhi.

Council Member Houghton asked Ms. Welch what her resolution addresses that the Delta Township did not. Mr. Rose answered stating it theirs focuses on increasing volume, the City works towards a facility being created. Ms. Olson confirmed the Delta version struck out the idea of pushing towards a facility, and maintaining that would increase the volume to drive a facility with normal market conditions, instead of forced market control. From the private sector, the information exists, there is no need for the group to push the facility because the private has sector already made the investment and needs to fill the need.

Ms. Miles recalled the last meeting where it appeared that multi-family residences were not in place for recycling. Ms. Welch stated that most are best serviced through commercial usage with larger dumpsters. They are exploring on a case by case basis.

Council Member Houghton asked if the steering committee can continue without the resolution, and Ms. Welch did state they could.

Council Member Brown Clarke asked Ms. Welch to take the new resolution back to the steering committee, then Council will discuss again at Ways and Means on September 7<sup>th</sup>.

Council Member Wood added that her concern is that there are multi resolutions out there with different concepts, and therefore the steering needs to settle on one resolution.

### **Vacancy Report**

Council Member Brown Clarke recapped a meeting she held with HR Director Ms. Mary Riley on August 2, 2016. This discussion involved the restructuring of the vacancy report. The process will begin with Finance as it has done in the past, then forwarded to Ms. Black in HR. The HR department will do their regular process but also create the column that was introduced in 2015 that would address the status of the vacant positions. Council President Brown Clarke acknowledged the report is not amended to burden the two departments, so the Council staff will assist with financial research. Items that have been added to the spreadsheet include the status column, if the position is offset by a contract worker, if it is offset by a retiree. The earlier request on if the work had been distributed to others via overtime was eliminated because Council Member Brown Clarke acknowledged that after talking to Ms. Riley that would be hard to determine. The column that would reflect how long a position was vacant could be difficult, therefore the Committee is looking for an annual reporting as a baseline. Therefore Ms. Black would look back 6 months, and then annually to see if each vacant position was vacant at those two baselines. Ms. Black confirmed that she can look back 6 months and make note for each positions if it was or was not vacant at that time. Council Member Brown Clarke clarified that the audience for the generation of the report is the Council, so they need these changes to help them better understand the vacancies and positions. Ms. Bennett added that the administration also uses it as a budget monitoring tool.

Council Member Brown Clarke instructed Mr. DeLine to update the Internal Auditor job scope to include this new task.

Lastly, Council Member Brown Clarke noted the new report will have a key to define the labels HR uses for status.

Ms. Black confirmed she had a conversation with Ms. Riley after the August 2, 2016 meeting and that the discussion in this meeting was the same information she shared.

Ms. Meade informed the Committee that she, as Union representative, gets a report from HR with all temporary contracted listed. Ms. Meade noted that the reports are never complete, and she is required to always ask further questions and more requests to obtain the information she asked for. This includes the need to have the contract, amendments to contracts, and information on if the temporary contracts receive benefits, overtimes, etc. Ms. Black acknowledged the information in the past given to Ms. Meade was insufficient, and that request has now been turned over to her, and therefore she solely will be responsible for providing everything.

### **Discussion - Lansing Housing Commission Financial Statements** **Discussion - Lansing Housing Commission Recovery Agreement with** **HUD and the City of Lansing**

Council Member Brown Clarke informed all present that Council staff sent a letter to Ms. Baines Lake inviting her again to a Committee meeting. There was no response, and so she asked Council staff to invite her again and include Mr. Baltimore with the LHC Board also. Ms. Baines

Lake attendance is requested to discuss the financials and recovery plan before her retirement from the LHC at the end of 2016.

Council Member Wood informed the Committee that she had sent information to Mr. Smiertka that addressed the section of the ordinance that speaks to all contracts, and other than purchasing and contracts with tenants, all are supposed to be approved by Council. Currently there is no contract in the Clerk's office for Ms. Baines Lake, and no proofs of insurance for the LHC as required. Mr. Smiertka acknowledged the information sent to him by Council Member Wood, and admitted he is still researching the statute that pre-empts the ordinance, and that has also been amended. There is currently no language in the ordinance that states the organizations have to physically to attend Committee meetings. Mr. Smiertka will continue to research, and Council Member Brown Clarke stated the item will appear on the agenda in September when a determination has been made by Law.

#### **Threshold on Council Approval on Separation Agreements (J. Abood)**

Mr. Smiertka informed the Committee that in terms of employment contracts that are currently being signed, they are following the recent Charter provision. To address other issues, they could consider amending the executive plan and attach it to the contract. The amendment states that provision of 4 month's severance is not in effect.

Mr. Smiertka addressed the question on Ms. McIntyre, stating that the calculations on Ms. McIntyre payment included issues of benefits. The benefit amount was right, the hours weren't reflected right. Ms. Bennett added to the discussion that the dollar amount in the contract was correct, but it only gave a vacation balance, not sick leave or personal time, that was also part of the calculation. Mr. Smiertka assured them again that it had to do with transmission of the calculation. The determination was \$49,565 the excess of that was structurally authorized for payment because there were claims, whether under the City Attorney McIntyre or the Mayor. Council Member Wood asked if that was because of the communications of a potential law suit, and Mr. Smiertka confirmed there was nothing in writing found, just claims of employment related and those could take various natures. The \$78,000+ was for the release of the claim.

Mr. Smiertka moved onto the options Council has to address similar situations in the future. One option he proposed was to address it in the upcoming annual contracts, adding in that any separation or severance benefits not otherwise covered must be ratified by the Mayor and City Council. A second option would be to put language in the executive plan with fringe benefit summaries. This can be put in the executive management rules for the end of year approval by City Council. A third option would be for Council to consider a Charter amendment and lastly Council can consider a resolution which would not be as effective. Mr. Smiertka did assure Council that what occurred is not unusual; a severance and release agreement.

Council Member Houghton asked if other municipalities have the similar options or a common practice. Also what the benefit would be to put the language in or not put it in for safe guards. Mr. Smiertka stated it is always seen in the employment relationship, what Council wants is a safe guard to review but then it becomes difficult to negotiate. Mr. Smiertka admitted he has seen these practices in private and public practice. Council Member Houghton then asked who has the authority in the other municipalities he has researched. Mr. Smiertka admitted it depends, in Grand Rapids it is the City Commission, but they do not have a Mayor. Some corporations it is the personnel manager.

Council Member Brown Clarke asked if there was a way to impose a threshold, so anything below that threshold would not go through Council, but anything over would. This would allow anything below management to have discretion. Mr. Smiertka was asked for a best practice recommendation. Mr. Smiertka confirmed it is standard if you are talking severance vs. settle. If it is a layoff, the company policy would be they get severance pay per the time worked. If the employee had issues they negotiate. Mr. Smiertka basically stated there is no standard. For a public body he stated they adopt language. The Charter says litigation is settled with Council approval, so he agreed to continue to research. Currently with the provision of 4 months, there is no flexibility. Council could see issues of termination of department heads, but that would be in closed sessions.

Council Member Wood spoke on her frustration in what had occurred with Ms. McIntyre departure, and the lack of information that was provided to Council, or incorrect information.

The discussion continued on appropriate language, claims that would run through Council, considering adopting a resolution for any insured or uninsured claim made by a department head shall not be settled without City Council approval, or something similar. Council Member Brown Clarke asked for something in place to address future claims and make sure they comport to certain rules and procedures so Council can address with the constituents.

Council Member Wood gave an example of a Council resolution on appointments adopted, not vetoed, then later the Mayor state he would not follow what it stated. The question to Mr. Smiertka was how was that legal. Mr. Smiertka stated if the resolution referenced the Charter, the Charters says no litigation settlement without Council. What would happen in that scenario, the Mayor would say Council was prohibiting his executive power. In the terms of the Charter where Council approves litigation he could not guarantee what happened wouldn't happen again. If Council does a Charter amendment it will take care of the concerns and issues, and there will be no wiggle room.

Ms. Miles spoke in opposition to the information that was provided to Council and asked the Committee to find out if a contract for Ms. McIntyre was ever found. Mr. Smiertka stated the original was found, but no signed amendments were found. The employee remained in office under employment of the Mayor, and there is no requirement in the Charter.

Council Member Houghton asked Mr. Smiertka if it needs to be a blanket for all department heads or just the City Attorney office since there is a unique working responsibility with Council. Mr. Smiertka stated they could start out addressing Councils authority to settle and then reference the City Attorney position as unique and therefore no claims will settle without Council. Committee asked for two documents to review, one for just the departments and one for the City Attorney.

### **Process to Securing an External Investigator (Council Member Wood)**

Request by Council Member Wood to remove the item from the Committee agenda. Council Member Brown acknowledged that the Committee is aware they will not get the votes from Council they will need to complete this process and hiring.

Ms. Miles asked why, and Council Member Brown Clarke reiterated that it was not fund driven, but they knew they would not get the votes of Council to pursue. It does not mean there aren't other steps, just not this step.

Ms. Miles offered financial assistance, and asked for a roll call vote on this item at Council.

**ADJOURN**

Adjourn at 9:54 a.m.

Submitted by,

Sherrie Boak, Recording Secretary Lansing City Council

Approved by the Committee on September 7, 2016